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08/746,901 11/18/96 ELLIOTT I MCIC-105/00U

EXAMINER

NGUYEN, S

ART UNIT

PAPER NUMBER

2731

DATE MAILED:

08/21/00

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Commissioner of Patents and Trademarks

# Advisory Action

Application No.

08/746,901

Applicant(s)

Elliot

Examiner

Steven Nguyen

Group Art Unit

2731



THE PERIOD FOR RESPONSE: [check only a) or b)]

- a) ☒ expires 4 months from the mailing date of the final rejection.
- b) ☐ expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

- ☐ Appellant's Brief is due two months from the date of the Notice of Appeal filed on \_\_\_\_\_ (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

Applicant's response to the final rejection, filed on May 22, 2000 has been considered with the following effect, but is NOT deemed to place the application in condition for allowance:

☒ The proposed amendment(s):

- ☒ will be entered upon filing of a Notice of Appeal and an Appeal Brief.
- ☐ will not be entered because:
- ☐ they raise new issues that would require further consideration and/or search. (See note below).
  - ☐ they raise the issue of new matter. (See note below).
  - ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
  - ☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

- ☐ Applicant's response has overcome the following rejection(s): \_\_\_\_\_

- ☐ Newly proposed or amended claims \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.

- ☒ The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attached.

- ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

- ☒ For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):

Claims allowed: \_\_\_\_\_

Claims objected to: \_\_\_\_\_

Claims rejected: 19-30

- ☐ The proposed drawing correction filed on \_\_\_\_\_ ☐ has ☐ has not been approved by the Examiner.
- ☐ Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☒ Other see attachment sheets.

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**DETAILED ACTION*****Response to Arguments***

1. Applicant's arguments filed 7/24/2000 have been fully considered but they are not persuasive.

Page 1-6 of the response, the applicant states that Yang or Kubler does not transmit a query includes a type of call service for obtaining a plurality of gateways. In reply, Yang discloses the directory Servers being the main philosophy behind the INETPhone service is to reduce a long distance phone call into two local calls and an Internet connection. Therefore, an INETPhone server will always be identified by its IP address with its local area code of the phone number (also possibly with its sub-regional number). In order to support a dynamic configuration of INETPhone servers on the Internet, a Directory Server(s) (DS) will be required to map between IP address and area code of INETPhone servers (Plurality of gateways), which in some sense, is similar to the functions of a Name Server. After an INETPhone server is installed on the Internet, it needs to register itself with a DS. The mapping information at DS will be disseminated to INETPhone servers for the search of a remote server in response to a requested phone call. Local cache of mapping information may also be maintained at INETPhone servers to alleviate communications between INETPhone servers and Directory Server(s). Thus Yang discloses a method of translating an identifier of destination of the call such as region or country code with a list of telephone numbers and associated IP addresses which is stored in the database of directory

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server in order to obtain the gateway for routing the call. Furthermore, Kubler discloses a method of translating an identifier of destination of the call such as region or country code with a list of telephone numbers and associated IP addresses which is stored in the database of directory server in order to obtain the gateway for routing the call (See col 101, lines 42 to col 102, lines 8). Furthermore, Kubler also discloses a method of transmitting a query which includes a type of call service to a server which stores a cross reference data base to obtain the gateways that can reach a type of call service (See col 100, lines 8-18).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Yang discloses and suggests a method of establishing a telephone call between a user A and B via Internet having a directory server for storing the addresses of a plurality of gateways in order to reply to a query message a plurality of gateways which contains a destination telephone number "user b". Kubler discloses a method of querying the cross reference database for obtaining a plurality of gateways and determining which gateway has a lowest cost to establish a telephone connection between the user A and B. Therefore, one of ordinary skill in the art will look into Kubler to obtain the teaching which Yang does not disclose.

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In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Yang and Kubler disclose the packets being transmitting via Internet by using a well known in the art and widely using in the public as Internet Protocol such as TCP/IP, UDP which includes Ping, trace route, packet echo and packet latency command as disclosed in Williams et al col 3, lines 8-48 (USP 5883891), Nelson et al Fig 3, Ref 108 (USP 5835720), Mckee et al col 1, lines 22-56 (USP 5477531) and Ranganathan et al Fig 3-4, col 6, lines 43 to col 7, lines 50 (USP 5931961) which are provided to the applicant in the first and final office action. These utilities use for diagnostic the computer network such as Internet. Therefore, applying this diagnostic utility into Internet to determine would have been explicit to one of ordinary skill in the art if a node is a live or not, time delay etc . . .

The teaching of Yang, Kubler and a well known TCP/IP diagnostic utility perform the claimed invention. Thus, the rejection maintains.

### ***Conclusion***

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2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Nguyen whose telephone number is (703) 308-8848. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham, can be reached on (703) 305-4378.

The fax phone number for this group is (703) 305-3988.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.

Steven Nguyen  
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August 17, 2000

  
CHI H. PHAM  
SUPERVISORY PATENT EXAMINER  
GROUP 2700  
8/18/00